UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/556,303	04/24/2000	Joann Ruvolo	AM9-99-0134	7178

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EXAMINER
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ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 06/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/556,303	RUVOLO ET AL.
	Examiner	**Art Unit**	
	Susanna M. Diaz	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>21 March 2005</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>23-39</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>23-39</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

S-O-O

DETAILED ACTION

1.   In view of the Applicant's Appeal Brief filed on March 21, 2005, PROSECUTION

IS HEREBY REOPENED. New rejections are set forth below.

To avoid abandonment of the application, appellant must exercise one of the

following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply

under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied

by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130,

1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

2.   Claims 23-39 are presented for examination.

Specification

3.   The specification is objected to as failing to provide proper antecedent basis for

the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction

of the following is required: The term "period of time" (recited in independent claims 23,

32, and 39) should be amended to correspond to the terminology used in the

specification or the drawings, as originally filed. For example, Figure 1b makes

reference to a "Start Date", "End Date", and "Duration." Figure 6a shows a "Date",

"Time", and "Duration." The claims should conform to the originally disclosed

terminology.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5.   Claims 27-29, 34, and 36 are rejected under 35 U.S.C. 112, first paragraph, as

failing to comply with the written description requirement. The claim(s) contains subject

matter which was not described in the specification in such a way as to reasonably

convey to one skilled in the relevant art that the inventor(s), at the time the application

was filed, had possession of the claimed invention.

Claims 27-29 are dependent from claim 26, which depends from claim 23, which

recites that matches are based on a "period of time, event criteria, minimum matching

requirements, and attributes of an activity or an entity." Claim 27 recites that the

categories of calendar event functions "comprise at least one of: personal matching, job

positions, job qualifications meetings, and activities." The specification and the

drawings limit their discussion of time and duration (i.e., period of time) to the matching

scenarios that address the planning of activities (e.g., see page 8, lines 19-20 and

Figures 1b and 6a). The specification and drawings, as originally filed, fail to expressly

disclose the embodiments related to personal matching, job positions, and job

qualifications as utilizing time and duration (i.e., period of time) as matching factors;

therefore, claim 27 contains subject matter which was not described in the specification

in such a way as to reasonably convey to one skilled in the relevant art that the

inventors, at the time the application was filed, had possession of the claimed invention.

Similarly, as per claim 28, the specification and drawings, as originally filed, fail to

expressly disclose the embodiments related to an item for sale, item desired for

purchase, request for quote, delivery or pickup of an item or person(s), replenishment of

supplies, or the reservation of the use of a vehicle or object as utilizing time and

duration (i.e., period of time) as matching factors; therefore, claim 28 contains subject

matter which was not described in the specification in such a way as to reasonably

convey to one skilled in the relevant art that the inventors, at the time the application

was filed, had possession of the claimed invention. Claim 29 is dependent from claim

28 and therefore inherits the same rejection.

Claim 34 presents similar issues as those addressed in the rejection of claim 27

above; therefore, the same rejection applies. Claim 36 is dependent from claim 34 and

therefore inherits the same rejection.

6.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

7.   Claims 23-39 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

As per independent claims 23, 32, and 39, since there is no antecedent basis in the specification for the recited "period of time" (as discussed in the specification objection above), the metes and bounds of this phrase are unclear. Does the "period of time" include a start and end time or just a duration of time or a combination thereof?

The "calendar store" recited in independent claims 23, 32, and 39 is not expressly recited as storing any of the input or generated data recited in the claims; therefore, the importance of the calendar store (including the associated function(s)) is ambiguous.

Claims 24-31 and 33-38 are dependent from claims 23 and 32 and therefore inherit the same rejections.

The "timer module" recited in claim 24 does not expressly incorporate any associated functionality; therefore, the metes and bounds of the "timer module" are not positively recited and the scope of the "timer module" as it related to the rest of the recited elements is unclear.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

8.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9.   Claims 23-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over

the Matchup software, as disclosed in [URL:

http://web.archive.org/web/19990220025029/members.aol.com/win4sports/freedoc.html

], last modified August 4, 1998, in view of Silverberg (U.S. Patent No. 6,216,110).

Matchup discloses an electronic calendar event matching system, said system

comprising:

[Claim 23]   a calendar store (Page 4: Matchup creates a small database to store data;

Page 12: The Matchup records are stored in data files),

a match program operatively connected to said calendar store by an electronic

calendar application (Pages 4, 5, 7-10, 12), said match program comprising:

a request handler operatively connected to an event handler, said request

handler routing requests for calendar event functions to said event handler, said event

handler allowing for the registration, modification, or deletion of an event (Page 5: The

Matchup program allows a user to add (i.e., register), edit (i.e., modify), or delete event

data);

an event repository, said event repository cooperating with said event

handler to store and update calendar event functions (Page 4: Matchup creates a small

database to store data; Page 12: The Matchup records are stored in data files);

a match engine performing a search of said event repository to locate a

match for registered events of said first entity with a registered event of at least one

second entity, said match fulfilling the period of time, event criteria, minimum matching

requirements, and attributes of an activity or an entity (Pages 7-10, 16: "The search will

find all people with a selected activity, acceptable skill level, and available in at least

one of the required time periods" (Page 9));

[Claim 26]   wherein said calendar event functions comprise categories (Pages 3, 16:

"MATCHUP can be used for finding players/partners for racquet sports, golf, individual

sports, team sports, card games, chess, board games, etc. MATCHUP also can be

used for finding referees, teachers/tutors, temporary workers, students, volunteers,

genealogy researchers, etc., etc." (Page 3));

[Claim 27]   wherein said categories comprise *at least one of*: personal matching, job

positions, job qualifications, meetings and activities (Pages 3, 16: "MATCHUP can be

used for finding players/partners for racquet sports, golf, individual sports, team sports,

card games, chess, board games, etc. MATCHUP also can be used for finding

referees, teachers/tutors, temporary workers, students, volunteers, genealogy

researchers, etc., etc." (Page 3));

[Claim 28]   wherein said categories comprise *any of* a commerce activity, service

desired, service offered, item for sale, item desired for purchase, request for quote,

delivery or pickup of an item or person(s), replenishment of supplies, or the reservation

of the use of a facility, place, vehicle or object (Pages 3, 16: "MATCHUP can be used

for finding players/partners for racquet sports, golf, individual sports, team sports, card

games, chess, board games, etc. MATCHUP also can be used for finding referees,

teachers/tutors, temporary workers, students, volunteers, genealogy researchers, etc.,

etc." (Page 3)).

Matchup is a standalone program that is executed in DOS and is run at a local computer off of a floppy disk. In other words, Matchup is not expressly disclosed as utilized in a client-server environment (claim 23), much less one that may be implemented locally or remotely on one or more computer-based systems, across networks or existing communication mediums (claim 30), wherein said across networks element comprises any of LANs, WANs, cellular, Internet or Web based networks (claim 31). However, the Examiner submits that the concept of collaboratively scheduling events among various participants is old and well-known in the art of scheduling, as evidenced by Silverberg. Silverberg lays the groundwork for a client-server environment that operates over a LAN and the Internet (col. 5, lines 34-64; col. 6, lines 36-45) and assists a user requesting a meeting in compiling his/her own availability information in addition to that of another user (col. 6, lines 23-63). When an available meeting time is identified, the calendar program can automatically alert the first and second users to a potential meeting time (col. 6, line 63 through col. 7, line 2). Matchup generates a direct indication of match and availability information to the single user (who may or may not be entering in his/her personal own match requirements) in the form of a search results display (Page 9) and Matchup suggests notifying the people identified through the match of these match results since mailing labels are printed for these people (Pages 11-12). Both Matchup and Silverberg are in the same field of endeavor (i.e., scheduling). While Matchup matches events without prior knowledge of a set time, place, etc. that will ultimately be matched (unlike Silverberg in which one user initiates the scheduling process with a desired time, place, etc. in mind),

Silverberg's invention is reasonably pertinent to the goal of Matchup. In other words, Matchup desires to schedule various types of events among participants who may not even know each other and would otherwise not have the means of easily finding one another (thereby implying that the potential participants are not all contained within a close-knit circle). Silverberg facilitates the scheduling of events among users and non-users of a calendar program who may be remotely located and want to maintain some degree of privacy of each person's respectively personal data, as suggested in col. 2, lines 22-38 of Silverberg. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to upgrade the Matchup program to be utilized in a client-server environment (claim 23), including one that may be implemented locally or remotely on one or more computer-based systems, across networks or existing communication mediums (claim 30), wherein said across networks element comprises any of LANs, WANs, cellular, Internet or Web based networks (claim 31), as taught by Silverberg, in order to facilitate the scheduling of events among a larger body of users who may be remotely located and want to maintain some degree of privacy (e.g., those who may not have previously known one another) in order to increase the likelihood of Matchup yielding a greater amount of successful matches, as suggested in col. 2, lines 22-38 of Silverberg. Similarly, such a modification of Matchup in view of Silverberg would also incorporate a response handler operatively notifying a requesting first entity that said calendar event has been registered, modified, or deleted (claim 23), wherein upon location of a match of a calendar event, said response handler notifies said first entity and said second entity via

said electronic calendar application (claim 25), since such automation of the notification step (performed with more manual intervention in Matchup) is taught by Silverberg and automation of a manual step is obvious in light of the well-known benefits of increased processing speed, efficiency, and reduction in error (normally introduced by human intervention).

As per claim 24, neither Matchup nor Silverberg expressly teaches a timer module that includes a schedule for match engine searches; however, the Examiner submits that it is old and well-known in the art of automation to set an automated process to occur according to a preset schedule. This is especially important in systems where data is constantly added or updated and therefore should be reevaluated periodically in order to produce more accurate and up-to-date analyses. Automating the updated analyses again increases processing speed, efficiency, and reduction in error (normally introduced by human intervention). Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the Matchup-Silverberg combination to include a timer module such that said match engine searches for matching events according to a schedule of said timer module in order to take into account any recently added or updated match information, thereby yielding more accurate and up-to-date match assessments in a more rapid, efficient, and less error-prone manner.

As per claim 29, neither Matchup nor Silverberg expressly teaches that a multiplicity of times for a commerce activity are available at variable prices or rates and which the most favorable price or rate is selected. However, one of Matchup's

embodiments is directed to matching participants interested in a particular sporting

event. The Examiner submits that it is old and well-known in the art of sporting event

planning that many sporting events incur a different cost based on a respective date

and/or time during which the sporting event occurs. For example, admission or

reservation charges of a field or facility might be cheaper during the daytime or on a

weekday than they are at night or on a weekend. Therefore, the Examiner asserts that

it would have been obvious to one of ordinary skill in the art at the time of Applicant's

invention to modify the Matchup-Silverberg combination to offer a multiplicity of times for

a commerce activity available at variable prices or rates and at which the most favorable

price or rate may be selected in order to increase customer satisfaction among users

who are given the option of selecting events that are the most economically feasible in

light of each user's respective needs.

[Claims 32-39]   Claims 32-39 recite limitations already addressed by the rejection

of claims 23-31 above; therefore, the same rejection applies.

Regarding claims 32 and 39, matching occurs until all stored event profiles

matching a required profile have been searched and retrieved (i.e., matched). The

results of such a match are shown on the screen, printed in a report, and saved to a file

(see page 9 of Matchup). This collection of matches is essentially a match repository.

Conclusion

10.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 10 am - 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susanna M. Diaz
Primary Examiner
Art Unit 3623

May 28, 2005